

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

KENNETH AND PAMELA PRICE JEAN

Plaintiffs

v.

CITY OF ASHBURNHAM POLICE

DEPARTMENT, ET. AL.

Defendants

*

*

*

*

*

*

*

*

C.A. NO. 03-12306FDS

AFFIDAVIT OF MARK D. STERN

I Mark D. Stern swear under the pain and penalty of perjury that the following statements are true, accurate, complete and known to me on personal knowledge.

1. I was never given notice by any Defendant of the filing of their emergency motion, or indeed even of their intention to file it. Indeed, when I received of the Emergency Motion from the Court, I was surprised because it was filed in contravention of my written invitation to the Defendants to confer in advance if they intended to file a motion on the subject matter of the alleged non-disclosures.
2. The notice from the Court arrived shortly after business hours on the day before the Motion was heard. Unfortunately, at that time I had to be out with my son in North Reading and did not return until more than four hours later. On the following morning I had several back to back appointments scheduled, and it was too late to reschedule them. Hence, on the following morning day, I could not even begin to consider how to respond to the motion until approximately two hours before the telephone hearing.
3. At approximately 11 a.m. I began to review the motion and prepare a letter of opposition which I thereafter faxed to the Court and opposing counsel. At the hearing I was advised the Court had not reviewed the letter.
4. Additionally I had only moments to confer with Mr. Fischer in advance of the hearing in reference to the motion, once being late at night, and a second time in the morning, and then only to schedule him to be on his cell telephone for 1 p.m.

Signed this 17th day of May, 2005,

/s/ Mark D. Stern

Mark D. Stern